

EXHIBIT A

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

YETI Coolers, LLC,

Plaintiff,

v.

Ad-N-Art Inc. (CA) d/b/a Asobu, and Ad-N-Art Inc. (US) d/b/a Asobu,

Defendants.

Civil Action No. 1:18-cv-00514-RP

Judge Robert L. Pitman

CONSENT JUDGMENT

Plaintiff, YETI Coolers, LLC (“YETI”), filed civil action number 1:18-cv-00514-RP in the Western District of Texas, against defendants, Ad-N-Art Inc. (CA) d/b/a Asobu, and Ad-N-Art Inc. (US) d/b/a Asobu (collectively, “Ad-N-Art”), asserting claims for (1) trade dress infringement in violation of 15 U.S.C. § 1125(a); (2) trade dress dilution in violation of 15 U.S.C. § 1125(c); (3) unfair competition and false designation of origin in violation of 15 U.S.C. § 1125(a); (4) trade dress dilution in violation of Tex. Bus. & Com. Code § 16.103; (5) common law trade dress infringement; (6) common law unfair competition; (7) common law misappropriation; and (8) unjust enrichment. YETI duly served its Complaint on Ad-N-Art on June 29, 2018. Ad-N-Art now stipulates and consents to the Court’s entry of this Consent Judgment.

NOW THEREFORE, upon consent of the parties, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The Court has subject matter jurisdiction over this action pursuant to at least 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331, 1338(a) & (b), and 1367(a).

2. This Court has personal jurisdiction over Ad-N-Art and venue is proper in this judicial district at least because, inter alia, Ad-N-Art is doing business in the State of Texas, including in this District.

3. Ad-N-Art sold, offered to sell, promoted, advertised, imported, and distributed 20 oz. tumblers and 30 oz. tumblers that YETI accused of violating YETI's intellectual property rights (collectively the "Accused Products").

4. YETI owns all right, title, and interest in and to the trade dress of the YETI 20 oz. Rambler® tumbler and the YETI 30 oz. Rambler® tumbler, including the overall look and appearance of the YETI 20 oz. and 30 oz. Rambler® tumblers, and all common law trademark and trade dress rights in the YETI 20 oz. and 30 oz. Rambler® tumblers. The trade dress of the YETI 20 oz. and 30 oz. Rambler® tumblers hereafter is referred to as the "YETI Trade Dress."

5. Ad-N-Art agrees that the YETI Trade Dress is unique, distinctive, non-functional, well known, famous, and has acquired distinctiveness and is associated by consumers with YETI, and that the goodwill associated with the YETI Trade Dress belongs exclusively to YETI.

6. Ad-N-Art agrees that the YETI Trade Dress is valid and enforceable.

7. Ad-N-Art agrees that the YETI Trade Dress is not essential to the use or purpose of a tumbler, does not affect the cost or quality of a tumbler, is not functional, is not the reason the YETI tumblers work, and, outside of the association with YETI's reputation and goodwill, are not important to the commercial success of tumblers, generally.

8. Ad-N-Art agrees that many competitors compete with YETI and that these competitors sell tumblers having alternative designs that do not include elements of the YETI Trade Dress and have a different overall appearance compared to the YETI Trade Dress.

9. Ad-N-Art agrees that exclusive use of the YETI Trade Dress by YETI will not put competitors at a significant non-reputation-related disadvantage in the marketplace.

10. Ad-N-Art agrees that the YETI Trademarks are valid and enforceable.

11. Ad-N-Art agrees that that the YETI Trademarks are unique, distinctive, famous, and well-known by consumers, and are associated by consumers with YETI.

12. Out of respect for YETI's product designs and rights in the YETI Trade Dress, Ad-N-Art has agreed to cease selling the Accused Products.

13. Ad-N-Art shall have a period of time identified in the Settlement Agreement, to sell the Accused Products it currently has in inventory ("Inventory Products").

14. Except for the limited sale of the Inventory Products, Ad-N-Art shall not at any time manufacture, have manufactured on its behalf, offer to sell, sell, promote, advertise, display, use, import, purchase, or distribute—whether directly or indirectly—(a) any Accused Products in any color or color combination, (b) products with a similar overall look and feel or having the same model names or numbers (including the same Amazon Standard Identification Numbers, Stock Keeping Unit numbers, Universal Product Codes, or any other identifying numbers or names), as the Accused Products or the YETI Trade Dress, (c) any product that includes trade dress that is confusingly similar to the YETI Trade Dress, or (d) any product that is likely to cause confusion, mistake, or to deceive as to the affiliation, connection, or association of Ad-N-Art with YETI, or as to the source, origin, sponsorship, or approval of the product by YETI.

15. Each party shall bear its own costs and attorney fees.

16. This Court shall retain jurisdiction over the parties for the purpose of enforcing the terms of this Consent Judgment.

17. This Consent Judgment represents a final adjudication of all claims, counterclaims, and defenses that were, or could have been, brought between YETI and Ad-N-Art in this case. This Consent Judgment is intended to be final and shall bind YETI and Ad-N-Art on all issues that were or could have been litigated in this proceeding, and YETI and Ad-N-Art shall not appeal any issue from this proceeding.

SO ORDERED:

Dated: _____, 2018

Robert L. Pitman
United States District Judge

Consented and Agreed to:

By: 

Joseph J. Berghammer (admitted in the
Western District of Texas)
Illinois Bar No. 6273690
jberghammer@bannerwitcoff.com
J. Pieter van Es (admitted in the Western
District of Texas)
Illinois Bar No. 6210313
pvanes@bannerwitcoff.com
Sean J. Jungels (admitted in the Western
District of Texas)
Illinois Bar No. 6303636
sjungels@bannerwitcoff.com
Banner & Witcoff, Ltd.
Ten South Wacker Drive
Suite 3000
Chicago, IL 60606-7407
Telephone: (312) 463-5000
Facsimile: (312) 463-5001

**ATTORNEYS FOR
YETI COOLERS, LLC**

By: 

Hindy Schecter
Ad-N-Art Inc.
178 West Service Road
Champlain, NY 12919
hindy@adnart.com

**ATTORNEY FOR Ad-N-Art Inc. (CA)
d/b/a Asobu, and Ad-N-Art Inc. (US) d/b/a
Asobu.**


Signed for YETI Coolers, LLC

Name: Bryan Barksdale
Title: General Counsel
Date: August 10, 2018


Signed for Ad-N-Art Inc. (CA)

Name: Hindy Schecter
Title: Attorney/ Avocat
Date: 2018-08-16


Signed for Ad-N-Art Inc. (US)

Name: Hindy Schecter
Title: Attorney/Avocat
Date: 2018-08-16